

Controlling the Concentration of Houses in Multiple Occupation Supplementary Planning Document

Summary

1. This report provides an overview of recent advice issued by the Planning Inspectorate (PINS) in relation to Houses in Multiple Occupation (HMOs) and Permitted Development (PD) Rights. It requests that Cabinet approve factual amendments to the Controlling the Concentration of HMOs Supplementary Planning Document (SPD) to reflect the advice of the Planning Inspectorate (PINS).

HMOs and PD Rights

2. When the Controlling the Concentration of Houses in Multiple Occupation (HMO) Supplementary Planning Document (SPD) was updated following the Local Plan Working Group on 9th December and Cabinet on 7th January the view was that HMOs did not benefit from Permitted Development (PD) rights. This was the view held by several other Local Authorities on this issue at that time. Additional text was added to the SPD at paragraph 5.21 to clarify PD rights for HMOs.
3. On the 15th January PINS issued an advice note to its inspectors regarding HMOs and PD rights (attached for information). In it PINS has indicated that 'Houses in Multiple Occupation, including those which fall within Class C4 can benefit from the permitted development rights granted to dwellinghouses by the General Permitted Development Order (GPDO)'. This means that a HMO does benefit from PD Rights unless it does not accord with the definition of a "dwelling house" or it contains, or is, a flat. The definition of dwelling house is including in Annex 1, the advice note produced by PINS.
4. This implies that a typical HMO does benefit from Part 1 of the GPDO. It is likely that Inspectors will attach significant weight to the advice note. Particularly given recent appeal decisions in November

2013, December 2013, and January 2014 in which the Inspectors concluded that an HMO does benefit from Part 1 of the GPDO and have PD rights. This means that those Local Planning Authorities that continue to apply the interpretation that an HMO does not benefit from Part 1 of the GPDO (i.e. by attaching limited weight to the advice note) are likely to find that their interpretation is not supported at appeal. In light of this Officers are of the view that the Council should now see HMOs as having PD rights.

5. The PD rights afforded to HMOs are set out in Annex 2, an extract from Schedule 2, Town and Country Planning (Use Classes) Order 1987 (as Amended).

Proposed Amendments to SPD

6. The following factual amendments to the SPD are suggested to ensure that it is fit for purpose and reflects current national advice on the issue:

A number of changes and additions to the rights to carry out works or change the use of land or buildings without needing planning permission have been made through changes to Permitted Development Rights in May 2013. This includes changes to domestic rear extensions. For HMOs falling under the new Use Class C4 the Council's position on this at present is that they do not benefit from permitted development rights and therefore planning permission is required for additions/alterations to these type of properties. Following advice from the Planning Inspectorate the Council's present position is that small HMOs can normally benefit from permitted development rights. However there maybe some cases, for example bed sit type large HMOs, where not all HMOs would necessarily have permitted development rights. It is recommended that an application for a Lawful Development Certificate for proposed development is submitted or pre-application advice from the Council is sought. For further information on the pre-application service provided by the Council please contact planning enquires on 01904 551550 or at planning.enquiries@york.gov.uk

Options

7. The following options are available for Cabinet to consider:

Option 1 – approve the proposed minor factual amendments to paragraph 5.21 of the Controlling the Concentration of HMOs SPD.

Option 2 – do not approve the application subject to amendments to the Neighbourhood Plan boundary and request that Officers explore the issue further.

Analysis

8. As set out above, it is likely that Inspectors will attach significant weight to the PINS advice note. This means that if City of York Council attaches limited weight to the advice note and continue to apply the interpretation that an HMO does not benefit from PD rights the Council are likely to find that it is not supported at appeal.

Council Plan

9. Controlling the concentration of HMOs relates to the following Council Plan Priorities:

- Build strong communities.
- Protect vulnerable people.
- Protect the environment.

Implications

10. The implications are as listed below:

- **Financial:** None
- **Human Resources (HR):** None
- **Equalities:** None
- **Legal:** None
- **Crime and Disorder:** None
- **Information Technology (IT):** None
- **Property:** None
- **Other:** None

Risk Management

11. No significant risks are associated with the recommendations in this report have been identified.

Recommendations

12. The Local Plan Working Group recommends Cabinet to:

- (i) Approve the proposed minor factual amendments to paragraph 5.21 of the Controlling the Concentration of HMOs SPD as per Option 1.

Reason: So that the SPD is fit for purpose and reflects current national advice.

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Specialist Implications Officer(s)

There are no specialist officer implications.

Wards Affected:

All

For further information please contact the authors of the report.

Glossary of Abbreviations

Annex A: Copy of PINs advice note to Inspectors

Annex B: Extract from Schedule 2, Town and Country Planning (Use Classes) Order 1987 (as Amended)